Remarks

Rejections

35 U.S.C. §102(b)

Johnson, US 5,972,027 ('027)

Claims 43-47 have been rejected under 35 U.S.C. §102(b) as being anticipated by Johnson, US 5,972,027, ('027). The Office Action asserts that in regard to claims 43-44 and 47, Johnson disclose a stent having pores for receiving drug particles including radiochemicals to irradiate and/or prohibit tissue growth or to permit diagnostic imaging of a site (col. 2, lines 15-38), the stent having one region that has a greater porosity volume than other region which inherently accommodates more radiochemical particles that the region that has a lesser porosity volume (figure 5).

Applicants traverse the rejection.

Claim 43 of the present invention, as amended, is directed to an implantable medical device having a surface comprising a plurality of radiopaque regions, the plurality of radiopaque regions comprising a particulate radiopaque material *pressed into the surface and mechanically attached to or diffused with the surface*, and the implantable medical device including a first radiopaque region and a second radiopaque region, the first and second radiopaque regions of different radiopacities.

Support for the amendment to claim 43 can be found on page 6, lines 11-22.

Johnson describes a *porous stent made from a powdered material* such as powdered metal or polymer for maintaining the patency of body passages. Johnson teaches optional loading of at least one drug into the pores by placing the stent in a liquid bath comprising the at least one drug at high pressure (col. 4, lines 51-63). The drugs include radiochemicals to irradiate and/or prohibit tissue growth or to permit diagnostic imaging of a site (col. 2, lines 25-257).

Applicants submit that the method employed by Johnson to deposit the drug into the pores in a liquid form would not produce a pressed particulate radiopaque material mechanically attached to or diffused with the surface of the device.

Thus, Applicants submit that the reference does not meet all of the claim limitations as found in amended claim 43 as required under 35 U.S.C. §102(b). Claims 44-47

depend from claim 43 and are patentable for at least the reasons that claim 43 is patentable.

Applicants respectfully request withdrawal of the rejection of claims 43-47 under 35 U.S.C. §102(b) as being anticipated by Johnson '027.

35 U.S.C. §103(a)

Johnson, US 5,972,027 ('027)

Claim 43 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson '027. The Office Action asserts that although Johnson does not disclose the stent having two regions disclosing two different radiopaque materials, Johnson suggests different drugs can be loaded into different regions of the stent (col. 4, lines 46-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ different radiochemical materials into different regions of Johnson's stent in order to provide a desired treatment for each of two different adjacent treated regions.

Claim 43 has been amended as discussed above. Claim 43 now recites that the radiopaque material is pressed into the surface of the medical device such that mechanical bonding or diffusion of the particulate radiopaque material to the surface of the medical device occurs.

Johnson '027 has also been discussed above. Johnson discloses a porous stent which can be loaded with drug(s) by placing the stent in a liquid bath.

The method described by Johnson would not lead to the mechanical bonding or diffusion of the radiopaque particulate material as recited in claim 43. Claim 48 depends from claim 43 and is patentable for at least the reasons that claim 43 is patentable. Applicants respectfully request withdrawal of the rejection of claim 49 under 35 U.S.C. §103(a) as obvious over Johnson '027.

Johnson, '027 in view of Weaver et al., US 6,6,41,776

Claims 49-55 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson '027 in view of Weaver et al. The Office Action asserts that Johson disclose a stent having pores for receiving drug particles and drug particles including radiochemicals to

irradiate and/or prohibit tissue growth or to permit diagnostic imaging of a site (col. 2, lines 15-38), the stent having one region that has a greater porosity volume than other region which inherently accommodates more radiochemical particles than the region that has a lesser porosity volume (figure 5). Johnson fails to disclose the type and particle size of the particulate radiopaque materials, as claimed, but Weaver et al. disclose employing the type and the particle size of the particulate radiopaque materials, as claimed (see col. 2, lines 45 to col. 5, line 29) into Johnson's stent in order to monitor the stent in a body lumen (col. 5, lines 56-64) and wherein the particulate radiopaque materials mixed with a binder and/or in form of a powder and coated with lubricant agents. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the radiopaque materials as disclosed by Weaver et al. into Johnson, since the particulate radiopaque materials as disclosed by Weaver et al. being designed and made to accommodate on the stent surface as disclosed by Johnson.

Claim 43 has been amended as described above.

Johnson has been discussed above.

Claim 43 is patentable over Johnson for the reasons discussed above. Combining the particulate material of Weaver et al. with the stent of Johnson, does not lead one of ordinary skill in the art to the particulate radiopaque material which is pressed into and mechanically bonded or diffused with the surface of the medical device as found in amended claim 43. Claims 49-55 depend from claim 1 and are patentable for at least the reasons that claim 43 is patentable.

Applicants respectfully request withdrawal of the rejection of claims 49-55 under 35 U.S.C. §103(a) as being obvious over Johnson '027 in view of Weaver et al., US 6,6,41,776.

CONCLUSION

Claims 43-55 are pending in the application. Applicants have addressed each of the issues presented in the Office Action. Based on the foregoing, Applicants respectfully request reconsideration and an early allowance of the claims as presented. Should any issues remain, the examiner is invited to contact the attorney of record at (952)563-3011 to expedite prosecution of the application.

Respectfully submitted,

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